

1 A bill to be entitled
 2 An act relating to damages; creating s. 768.755, F.S.;
 3 providing for the calculation of damages under
 4 specified circumstances; specifying that certain
 5 contracts are not subject to discovery or disclosure
 6 in certain actions; limiting the amount of damages in
 7 certain actions involving liens or subrogation claims
 8 by certain payors; creating s. 768.82, F.S.; limiting
 9 noneconomic damages in civil actions; providing that a
 10 jury may not be informed of such limit; providing
 11 exceptions; providing an effective date.

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 13 Be It Enacted by the Legislature of the State of Florida:

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 15 Section 1. Section 768.755, Florida Statutes, is created
 16 to read:

17 768.755 Damages recoverable for cost of medical or health
 18 care services; evidence of amount of damages; applicability.-

19 (1) In a personal injury or wrongful death action to which
 20 this part applies, damages for the cost of medical or health
 21 care services provided to a claimant shall be calculated as
 22 follows:

23 (a) If a claimant received and paid a health care provider
 24 for medical or health care services, and there is no outstanding
 25 balance for those services, the actual amount remitted to the

26 | provider is the maximum amount recoverable. Any difference
27 | between the amount originally billed by the provider and the
28 | actual amount remitted to the provider is not recoverable or
29 | admissible in evidence.

30 | (b) If a claimant received medical or health care services
31 | that were paid by a government program or private health
32 | insurance for which there is no outstanding balance due to the
33 | provider other than a copayment or deductible owed by the
34 | claimant, the actual amount remitted to the provider by the
35 | government program or private health insurance, plus any
36 | copayment or deductible owed by the claimant, is the maximum
37 | amount recoverable. Any difference between the amount originally
38 | billed by the provider and the sum of the actual amount remitted
39 | to the provider and the copayment or deductible owed by the
40 | claimant is not recoverable or admissible in evidence.

41 | (c) If a health care provider provided medical or health
42 | care services to a claimant for which an outstanding balance is
43 | due to the health care provider, and for claims asserted for
44 | medical or health care services to be provided to the claimant
45 | in the future, the maximum amount recoverable is the amount
46 | accepted from Medicare in payment for such services by other
47 | health care providers in the same geographic area. This
48 | limitation also applies to any lien asserted for such services
49 | in the action, with the exception of liens identified in
50 | subsection (3).

51 (2) An individual contract between a health care provider
 52 and an authorized insurer offering health insurance, as defined
 53 in s. 624.603, or health maintenance organization, as defined in
 54 s. 641.19, is not subject to discovery or disclosure in an
 55 action under this part, and such information is not admissible
 56 in evidence in an action to which this part applies.

57 (3) Notwithstanding this section, if a Medicaid managed
 58 care plan, Medicare, or a payor regulated under the Florida
 59 Insurance Code covered or is covering the cost of a claimant's
 60 medical or health care services and has given notice of its
 61 intent to assert a lien or subrogate a claim for past medical
 62 expenses in the action, the amount of the lien or subrogation
 63 claim, in addition to the amount of a copayment or deductible
 64 paid or payable by the claimant, is the maximum amount
 65 recoverable and admissible into evidence with respect to the
 66 covered medical or health care services.

67 (4) This section applies only to those actions for
 68 personal injury or wrongful death to which this part applies
 69 arising on or after July 1, 2019, and has no other application
 70 or effect regarding compensation paid to providers of medical or
 71 health care services.

72 Section 2. Section 768.82, Florida Statutes, is created to
 73 read:

74 768.82 Limit on noneconomic damages.—

75 (1) In any civil action, damages for noneconomic losses to

76 compensate for pain and suffering, inconvenience, mental
77 anguish, disfigurement, loss of capacity for enjoyment of life,
78 loss of consortium, loss of a decedent's companionship and
79 protection, lost parental companionship, instruction and
80 guidance, and other nonpecuniary damages may not exceed \$1
81 million.

82 (2) The jury may not be informed of this limit.

83 (3) This section does not apply to:

84 (a) Punitive damages; or

85 (b) Damages for an intentional tort.

86 Section 3. This act shall take effect July 1, 2019.